## PATENT COOPERATION TREATY

m the ERN	9			) • E W/	4 Y 7
EHN	IATIONIAI SEARCHING ALLIH	TRITY		REC'D 12 M	11 4
):	ATIONAL SEARCHING AUTHO	31111		PCT	
		(3)			
	see form PCT/ISA/220	00,	WRITT INTERNATION	EN OPINION OF THE IAL SEARCHING AUTHOR	ITY
			(P	PCT Rule 43bis.1)	
			Date of mailing	o form PCT/ISA/210 (second sheet)	
			] (,		<u> </u>
oplica ee fo	ant's or agent's file reference orm PCT/ISA/220	•	FOR FURTHER ACTION See paragraph 2 below		
	ational application No. 1B2005/000163	International filing date 24.01.2005	(day/month/year)	Priority date (day/month/year) 26.01.2004	
	ational Patent Classification (IPC) or	both national classification	n and IPC		
:65E	081/00, A47J31/00, A47J31/4	0			
pplic					
	TOESPRESSO S.P.A.				
	<ul><li>☑ Box No. I</li><li>☐ Box No. II</li><li>☐ Box No. III</li><li>☐ Non-establish</li></ul>	•	egard to novelty, inventi	ve step and industrial applicability	
			▼		
	57 D No V Bessened et	of invention atement under Rule 43	bis 1(a)(i) with regard to	o novelty, inventive step or industrial	-
	⊠ Box No. V Reasoned st applicability;	atement under Rule 43 citations and explanation	bis 1(a)(i) with regard to	o novelty, inventive step or industrial	
	<ul><li>☑ Box No. V Reasoned st applicability;</li><li>☐ Box No. VI Certain documents.</li></ul>	atement under Rule 43 citations and explanation ments cited	bis.1(a)(i) with regard to ons supporting such sta	o novelty, inventive step or industrial	
	<ul> <li>☑ Box No. V</li> <li>☐ Box No. VI</li> <li>☑ Box No. VII</li> <li>☐ Certain deferrance</li> <li>☑ Certain deferrance</li> </ul>	atement under Rule 43 citations and explanation	bis.1(a)(i) with regard to ons supporting such sta application	o novelty, inventive step or industrial	
2.	<ul> <li>☑ Box No. V</li> <li>☐ Box No. VI</li> <li>☑ Box No. VII</li> <li>☐ Certain deferrance</li> <li>☑ Certain deferrance</li> </ul>	atement under Rule 43: citations and explanation dents cited cts in the international a	bis.1(a)(i) with regard to ons supporting such sta application	o novelty, inventive step or industrial	
2.	Box No. V Reasoned st applicability;  Box No. VI Certain docu Box No. VII Certain deference Box No. VIII Certain observation  FURTHER ACTION  If a demand for international p	atement under Rule 43. citations and explanation ments cited cts in the international a ervations on the internation reliminary examination onal Preliminary Examination	bis.1(a)(i) with regard to one supporting such standard such standard such standard such standard such such such such such such such such	o novelty, inventive step or industrial stement  ill usually be considered to be a However, this does not apply where e chosen IPEA has notifed the	
2.	Box No. V Reasoned st applicability; Box No. VI Certain docu Box No. VII Certain obset FURTHER ACTION  If a demand for international puritien opinion of the International Bureau under Ruwill not be so considered.  If this opinion is, as provided a	atement under Rule 43. citations and explanation and explanation of the international actions on the international preliminary examination on all Preliminary Examination of the first one of the first	bis.1(a)(i) with regard to one supporting such state application tional application is made, this opinion with a policity ("IPEA"). The to be the IPEA and the opinions of this Interress a written opinion of the approximate with amendations.	o novelty, inventive step or industrial stement  ill usually be considered to be a However, this does not apply where e chosen IPEA has notifed the	
2.	Box No. V Reasoned st applicability;  Box No. VI Certain docut  Box No. VII Certain defers  Box No. VIII Certain observations  FURTHER ACTION  If a demand for international puritten opinion of the International Bureau under Ruwill not be so considered.  If this opinion is, as provided a submit to the IPEA a written remonths from the date of mailing	atement under Rule 43. citations and explanation and explanation of the international activations on the international reliminary examination on all Preliminary Examination of the first of the 66.1 bis(b) that writted above, considered to be eply together, where aping of Form PCT/ISA/220	bis.1(a)(i) with regard to one supporting such state application tional application is made, this opinion with a policity ("IPEA"). The to be the IPEA and the opinions of this Interress a written opinion of the approximate with amendations.	ill usually be considered to be a However, this does not apply where e chosen IPEA has notifed the national Searching Authority	
<b>3</b> .	Box No. V Reasoned stapplicability; Box No. VI Certain docu Box No. VII Certain defer Box No. VIII Certain observations FURTHER ACTION  If a demand for international puritten opinion of the International three applicant chooses an Authoritem of the social considered.  If this opinion is, as provided a submit to the IPEA a written months from the date of mailing whichever expires later.	atement under Rule 43. citations and explanation and explanation in the international acreations on the international Preliminary Examination on Preliminary Examination of the first of th	bis.1(a)(i) with regard to one supporting such state application tional application is made, this opinion with a policity ("IPEA"). The to be the IPEA and the opinions of this Interress a written opinion of the approximate with amendations.	ill usually be considered to be a However, this does not apply where e chosen IPEA has notifed the national Searching Authority	
	Box No. V Reasoned st applicability; Box No. VI Certain docu. Box No. VII Certain defer Box No. VIII Certain observant of the International puritten opinion of the International Bureau under Ruwill not be so considered.  If this opinion is, as provided a submit to the IPEA a written months from the date of mailin whichever expires later.  For further options, see Form	atement under Rule 43. citations and explanation and explanation in the international acreations on the international Preliminary Examination on Preliminary Examination of the first of th	bis.1(a)(i) with regard to one supporting such state application tional application is made, this opinion with a policity ("IPEA"). The to be the IPEA and the opinions of this Interress a written opinion of the approximate with amendations.	ill usually be considered to be a However, this does not apply where e chosen IPEA has notifed the national Searching Authority	
2.	Box No. V Reasoned st applicability; Box No. VI Certain docu. Box No. VII Certain defer Box No. VIII Certain observant of the International puritten opinion of the International Bureau under Ruwill not be so considered.  If this opinion is, as provided a submit to the IPEA a written months from the date of mailin whichever expires later.  For further options, see Form	atement under Rule 43. citations and explanation and explanation in the international acreations on the international Preliminary Examination on Preliminary Examination of the first of th	bis.1(a)(i) with regard to one supporting such state application tional application is made, this opinion with a policity ("IPEA"). The to be the IPEA and the opinions of this Interress a written opinion of the approximate with amendations.	ill usually be considered to be a However, this does not apply where e chosen IPEA has notifed the national Searching Authority	



European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465

Augustin, W

Telephone No. +49 89 2399-2629



# WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No. PCT/IB2005/000163

	Box No.	I Basis of the opinion
١.	With reg	ard to the <b>language</b> , this opinion has been established on the basis of the international application in page in which it was filed, unless otherwise indicated under this item.
	lanç (unc	opinion has been established on the basis of a translation from the original language into the following uage , which is the language of a translation furnished for the purposes of international search ler Rules 12.3 and 23.1(b)).
2.	With reg	ard to any <b>nucleotide and/or amino acid sequence</b> disclosed in the international application and ry to the claimed invention, this opinion has been established on the basis of:
	a. type o	of material:
		a sequence listing
		table(s) related to the sequence listing
	b. forma	t of material:
		in written format
		in computer readable form
	c. time	of filing/furnishing:
		contained in the international application as filed.
		filed together with the international application in computer readable form.
		furnished subsequently to this Authority for the purposes of search.
3	ha co	addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto s been filed or furnished, the required statements that the information in the subsequent or additional pies is identical to that in the application as filed or does not go beyond the application as filed, as propriate, were furnished.
	. Additio	nal comments:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Yes: Claims

11-14

No: C

Claims

1-10, 15-20

Inventive step (IS)

Yes: Claims

11-13

No: Claims

14

Industrial applicability (IA)

Yes: Claims

1-20

No: Claims

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

PCT/IB2005/000163

#### Re Item V

1.) The present application does not meet the requirements of Article 52(1) EPC, because **the subject-matter of claims 1-10, 15-20 is not new** in the sense of Article 54(1) and (2) EPC.

Document **US-A-5 242 702** discloses (see in particular column 6, lines 11-47 and figs 1-3) a process according to claims 1-6 and a capsule according to the first part of claim 7 where the opening area is varying gradually (i.e. increasing and decreasing) according to the internal pressure, further comprising a capsule with hinge means (i. e. a bendable area, see in particular fig. 3) for opening outwardly during dispensing and a filter element (4) spaced from the bottom wall (16, see fig. 1). Document US-A-5 242 702 therefore anticipates claims 1-10, 18-20.

Document WO-A-02 076 270 discloses (see page 5, line 15 - page 7, line 20 and figs 1, 2) a process according to the first part of claim 1 using a puncturing member (4) which is equal to the dispensing opening of the capsule (2)(see page 6, lines 6-9). Water can therefore only be dispensed if the pressure of the water deforms the wall of the opening, thus varying the area of the opening (i.e. increasing the area as the internal pressure decreases).

Consequently, WO-A-02 076 270 anticipates claims 1-5, 7-9, 15-17.

Document **EP-A-1 243 210** discloses (see paragraph 30 and figs 4-6) a process according to the first part of claim 1 where the opening member gradually acts on the movable portion (20), thus varying the area of the dispensing opening from a closed to a half opened and finally to a fully open area when the pressure increases inside the internally concave capsule. Further the dispensing area decreases before all beverage has been dispensed (see last three lines of paragraph 30) Document EP-A-1 243 210 therefore anticipates claims 1-3, 7-9.

2.) The dependent claim 14 do not contain any additional features which, in combination with the features to the claim to which it refers, involve an inventive step since they come within the scope of the customary practice followed by persons skilled in the art [see documents WO-A-02 076 276, or EP-A-1 243 210 which both disclose capsules

which have at least at its lower borders inclined dispensing walls (see EP-A-1 243 210 at the end of reference 30 in fig. 4) ].

Consequently, the subject-matter of claim 14 lacks an inventive step (Articles 52(1) and 56 EPC).

3.) The combination of the features of dependent **claims 11-13** is neither known from, nor rendered obvious by, the available prior art.

### Re Item VII

The application does not meet the requirements of Article 84 EPC, because **claim 5 is not clear** as opening member (9a) forms not part of the movable outlet lid portion of <u>said</u> side wall (F).

It is supposed that lines 30 of claim 5 should read as follows (see page 7, lines 211-13 of the description):

"... said wall (1b) and an opening member (9a) of a puncturing member (9) ...".

## PATENT COOPERATION TREATY

om the ITERNATIONAL SEARCHING AUTHO	RITY		WIPO 12 MAY 20	
То:	.3		PCT	
see form PCT/ISA/220	00	INTERNATION	EN OPINION OF THE AL SEARCHING AUTHORITY CT Rule 43 <i>bis</i> .1)	
		Date of mailing (day/month/year) see	form PCT/ISA/210 (second sheet)	
Applicant's or agent's file reference see form PCT/ISA/220		FOR FURTHER ACTION See paragraph 2 below		
International application No. PCT/IB2005/000163	International filing date 24.01.2005	(day/month/year)	Priority date (day/month/year) 26.01.2004	
International Patent Classification (IPC) or B65D81/00, A47J31/00, A47J31/40	l both national classification	n and IPC		
Applicant TUTTOESPRESSO S.P.A.				
□ Box No. IV Lack of unity of a demand for international provided application application application. Box No. VII Certain defection □ Box No. VIII Certain observation. Example 2. FURTHER ACTION  If a demand for international provided applicant chooses an Author International Bureau under Rull will not be so considered.  If this opinion is, as provided at	pinion  Iment of opinion with re of invention Itement under Rule 43 <i>l</i> citations and explanation Inents cited Its in the international a Invations on the international Preliminary Examination in the foliation of the foliation o	gard to novelty, inventions. 1(a)(i) with regard to one supporting such state pplication ional application is made, this opinion whing Authority ("IPEA"). It to be the IPEA and the nopinions of this Internal a written opinion of the application with a mendal	ill usually be considered to be a However, this does not apply where e chosen IPEA has notifed the	
3. For further details, see notes to	o Form PCT/ISA/220.			

Name and mailing address of the ISA:

Authorized Officer

9)

European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465

Augustin, W

Telephone No. +49 89 2399-2629



## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No. PCT/IB2005/000163

_	Box N	lo. I	Basis of the opinion
•	With r	egaro nguag	I to the <b>language</b> , this opinion has been established on the basis of the international application in je in which it was filed, unless otherwise indicated under this item.
	la (L	ingua under	Rules 12.3 and 23.1(b)).
2.	With r	egaro sary	to any <b>nucleotide and/or amino acid sequence</b> disclosed in the international application and to the claimed invention, this opinion has been established on the basis of:
	a. typ	e of n	naterial:
		a s	equence listing
		tab	le(s) related to the sequence listing
	b. for	mat o	f material:
		in v	written format
		in (	computer readable form
	c. tim	e of f	iling/furnishing:
		co	ntained in the international application as filed.
		l file	ed together with the international application in computer readable form.
		) fui	nished subsequently to this Authority for the purposes of search.
3		has b copie	dition, in the case that more than one version or copy of a sequence listing and/or table relating thereto been filed or furnished, the required statements that the information in the subsequent or additional s is identical to that in the application as filed or does not go beyond the application as filed, as opriate, were furnished.
Δ	Δddi	tional	comments:

## WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

International application No. PCT/IB2005/000163

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Yes: Claims

11-14

lo: Claims

1-10, 15-20

Inventive step (IS)

Yes: Claims

11-13

No: Claims

14

Industrial applicability (IA)

Yes: Claims

1-20

No: Claims

2. Citations and explanations

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

PCT/IB2005/000163

#### Re Item V

 The present application does not meet the requirements of Article 52(1) EPC, because the subject-matter of claims 1-10, 15-20 is not new in the sense of Article 54(1) and (2) EPC.

Document **US-A-5 242 702** discloses (see in particular column 6, lines 11-47 and figs 1-3) a process according to claims 1-6 and a capsule according to the first part of claim 7 where the opening area is varying gradually (i.e. increasing and decreasing) according to the internal pressure, further comprising a capsule with hinge means (i. e. a bendable area, see in particular fig. 3) for opening outwardly during dispensing and a filter element (4) spaced from the bottom wall (16, see fig. 1). Document US-A-5 242 702 therefore anticipates claims 1-10, 18-20.

Document WO-A-02 076 270 discloses (see page 5, line 15 - page 7, line 20 and figs 1, 2) a process according to the first part of claim 1 using a puncturing member (4) which is equal to the dispensing opening of the capsule (2)(see page 6, lines 6-9). Water can therefore only be dispensed if the pressure of the water deforms the wall of the opening, thus varying the area of the opening (i.e. increasing the area as the internal pressure decreases).

Consequently, WO-A-02 076 270 anticipates claims 1-5, 7-9, 15-17.

Document **EP-A-1 243 210** discloses (see paragraph 30 and figs 4-6) a process according to the first part of claim 1 where the opening member gradually acts on the movable portion (20), thus varying the area of the dispensing opening from a closed to a half opened and finally to a fully open area when the pressure increases inside the internally concave capsule. Further the dispensing area decreases before all beverage has been dispensed (see last three lines of paragraph 30) Document EP-A-1 243 210 therefore anticipates claims 1-3, 7-9.

2.) The dependent claim 14 do not contain any additional features which, in combination with the features to the claim to which it refers, involve an inventive step since they come within the scope of the customary practice followed by persons skilled in the art [see documents WO-A-02 076 276, or EP-A-1 243 210 which both disclose capsules

which have at least at its lower borders inclined dispensing walls (see EP-A-1 243 210 at the end of reference 30 in fig. 4)].

Consequently, the subject-matter of claim 14 lacks an inventive step (Articles 52(1) and 56 EPC).

3.) The combination of the features of dependent **claims 11-13** is neither known from, nor rendered obvious by, the available prior art.

### Re Item VII

The application does not meet the requirements of Article 84 EPC, because **claim 5 is not clear** as opening member (9a) forms not part of the movable outlet lid portion of <u>said</u> side wall (F).

It is supposed that lines 30 of claim 5 should read as follows (see page 7, lines 211-13 of the description):

"... said wall (1b) and an opening member (9a) of a puncturing member (9) ...".